

Court Advisory

Fourth Court of Appeals
Cadena-Reeves Justice Center
300 Dolorosa, Suite 3200
San Antonio, Texas 78205-3037



Contact: Keith Hottle, Clerk of the Court
Phone: (210) 335-2510

FOR IMMEDIATE RELEASE
February 8, 2012

Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in two appeals on Wednesday, March 7, 2012, beginning at 1:30 p.m. at St. Mary's University. Arguments will be presented to a panel of justices consisting of: Justice Karen Angelini, Justice Sandee Bryan Marion, and Justice Phylis J. Speedlin. The second panel to hear arguments will consist of Justice Rebecca Simmons, Justice Steven C. Hilbig and Justice Marialyn Barnard.

The following cases will be presented:

Garza v. Zachry Constr. Corp, et al. - Panel: Justice Karen Angelini, Justice Sandee Bryan Marion and Justice Phylis Speedlin.

This is an appeal from a take-nothing summary judgment rendered in favor of appellees. The issues on appeal center on the workers' compensation bar contained in Texas Labor Code section 408.001. Garza is the employee of a general contractor and appellees are a subcontractor and its two employees. In his first issue, Garza asserts his common-law tort claims against the two employees of the subcontractor are not barred by the exclusive remedy provided under the Texas Workers' Compensation Act because the subcontractor contractually agreed it employees were not the employees of the general contractor. In his second issue, he asserts any such bar to his claims violates the Texas Constitution's open courts guarantee.

The Estate of Francisco Julio Lerma Sanchez, Deceased - Panel: Justice Rebecca Simmons, Justice Steven C. Hilbig and Justice Marialyn Barnard.

This is an appeal of a summary judgment on the non-existence of a common law marriage between the late Francisco Julio Lerma Sanchez and Carmen Viera-Pena Lerma. The trial court determined that Ms. Lerma did not establish the elements of common law marriage in section 2.401 of the Texas Family Code. The section 2.401 Texas Family Code provides that a common law marriage occurs if a "man and woman agreed to be married and after the agreement they lived in this state as husband and wife and they represented to others that they were married." On appeal Ms. Lerma

Court Advisory

Fourth Court of Appeals
Cadena-Reeves Justice Center
300 Dolorosa, Suite 3200
San Antonio, Texas 78205-3037



┌ ┌ ┌ ┌ ┌ ┌ ┌ ┌ ┌ ┌ ┌ ┌ ┌ ┌ ┌

contends there was evidence to establish a common law marriage or alternatively she raised a fact issue on whether there was a common law marriage.

The hearings will convene in the University Mock Courtroom located at One Camino Santa Maria, San Antonio, Texas 78228.